

Minutes of the October 26, 2012 Regular Council Meeting

Call to Order and Flag Salute at 3:42 pm by Mayor Serio.

Council in Attendance: Serio, Bunting, Langan, Weistling, Tingle, Carmean and Smallwood

Absent: None

Presentation – Sidewalk Improvement Plan

Mr. Ted Williams, Landmark Engineering, explained the current plan for adding a sidewalk to the area extending from Cannon Street (Town Park) to Bayard Street (end of Town Hall parking lot). The plan may require eliminating the current rock garden at the corner of Bayard Street and SR1 and replacing it with a more modern bio-retention area in order to accommodate the sidewalk and ADA accessible ramp. Town Manager Burke noted that the cost has increased from what was anticipated; DeIDOT will review the project and report back within 45-90 days. A brief discussion followed regarding the pros/cons of extending the walk across the front of Town Hall and replacing the rock garden.

Motion to give the Town Manager authority to move forward with the project – Council Member Tingle

Second – Council Member Langan

Discussion – None

Vote: All in favor (7-0)

President's Report

- Mayor Serio asked that citizens stay informed about the pending severe weather.
- Mayor Serio presented the Commission/Committee assignments for this year.
- The rain garden will be planted in the Cannon Street Park within the next 2 weeks.

Topics for Discussion and Possible Action

a. Fenwick Flicks

Helen Ball (Bethany-Fenwick Chamber of Commerce) thanked the Town for allowing the Chamber to present movies on the beach this past summer. The Chamber estimated that a total of nearly 1200 people attended the 4 events. The Chamber would like to continue the program next summer and is proposing the 3rd Tuesday of each month beginning in May and extending through August for the tentative dates.

DISCUSSION

None

Motion to continue the Fenwick Flicks – Council Member Carmean

Second – Council Member Langan

Vote: All in favor (7-0)

b. Beach Smoking Ban – Mary Ellen Langan

The Environmental Committee is asking Town Council to consider a proposal to ban smoking on the beach except in designated areas (copy of proposal attached). The Committee asked Council's approval to move forward.

DISCUSSION

Mayor Serio asked how other beach communities handle the problem; Mrs. Langan advised that the DE State Parks have a no smoking policy but there is no law to back it up. The Town of Bethany Beach has a no-smoking policy and hires seasonal staff to warn first and then fine violators. Council Member Weistling advised the Committee to make the proposal to Council and ask if Council will forward the topic to the Charter and Ordinance Committee for review. A discussion followed on signage, enforcement and location of the smoking areas. Council Member Weistling noted that the Town has the right to regulate the beach under Section 26-B of Town Charter and that it has a legal basis to proceed under Chapter 52 of Town Code.

Minutes of the October 26, 2012 Regular Council Meeting

Motion to forward the smoking ban proposal for Town beaches and parks to the Charter and Ordinance Committee for review and possible action – Council Member Carmean

Second – Council Member Langan

Vote: 6-1 Council Member Tingle voting “no”

c. Bethany Beach Volunteer Fire Company Ambulance Service FY13 Budget – Town Manager Burke
Mr. Burke advised Council that the Ambulance Service Fee will increase from \$41 to \$44. The increase is due to a loss of State and County funding/grants, the need for a new vehicle and the increased number of calls they are handling.

Approval of Minutes:

Motion to Approve the Minutes of September 28, 2012 Meeting - Council Member Weistling

Second - Council Member Bunting

DISCUSSION – None

Vote: 6-0-1; Council Member Carmean abstained

Treasurer's Report:

Council Member presented his report. The town is in the process of transferring some funds into a different bank.

Motion to accept the Treasurer's Report – Council Member Tingle

Second – Council Member Langan

DISCUSSION - None

Vote: All in favor to accept the Treasurer's report (7-0)

Town Manager Report:

Town Manager Burke reported that:

- A part-time seasonal employee has been hired for the Public Works department and the cost currently shows in the Public Works budget.
- The Administration Department shows the last month of the copier lease in the Office Equipment Budget.
- The town is gearing up for the pending storm by removing/storing items and taking steps for damage mitigation/removal of debris.
- The Cannon Street Park ADA plans have been approved and the DNREC subaqueous permit application has been sent.
- The paving project should be complete by the end of November, weather permitting.
- The Town Audit is complete and will be presented at the December 14, 2012 Council meeting.
- The median landscaping will be upgraded by Sposato.
- Town Hall renovations are nearing completion; Mr. Burke thanked the Public Works Department for doing the work.
- Lyons Insurance Company is working with the town to keep the Worker Compensation rates as low as possible in light of the proposed state-wide rate increase.
- The DEMA grant for a mobile fuel tank is back in play. It is designed specifically for diesel fuel for heavy equipment.
- The town has collected approximately 90% of taxes.
- The Fenwick Island Newsletter (FIN) will be out in November.

Department Reports:

- Building Official – Report is included in the meeting packet.
- Public Works – Bryan Reed advised that his report is included in meeting packet.
 - Bunting and Murray have been retained to assist the town with sand removal if needed after the storm.
- Fenwick Island Beach Patrol – no report
- Police Department – Chief Boyden reported that in addition to his report (included in Council booklet) the department is preparing for the upcoming storm. Residents of the town should expect to be cut off from the

Minutes of the October 26, 2012 Regular Council Meeting

rest of the area and he encouraged residents to consider going to the nearest evacuation center located at Indian River High School if an evacuation is ordered. The Police Department may have to evacuate and, if they do, they will reassemble at the Ocean View Police Department.

Committee Reports:

- Beach Committee –Becca McWilliams advised that the Fenwick Freeze is planned for Tuesday, January 1 at 10:30 AM on Bayard Street. There will be pre-registration on 12/29 and 12/31 in Town Hall from 11AM – 1PM.
- Environmental Committee – Chair Mary Ellen Langan had nothing further to report.

Planning Commission: No report

Charter & Ordinance

- **Proposed Second Reading Chapter 61 ADA Access – Council Member Weistling**

Council Member Weistling motioned that Council accept the proposed Second Reading (copy attached to these minutes)

Second – Council Member Bunting

DISCUSSION

Council Member Weistling advised that this change adds 61-D (1) a) and adds the word “pavers” to 61-D-(2). It also allows a property owner to extend their sidewalk to the street into the Town’s right of way for handicap access only and specifies what materials can be used and does not hinder drainage.

VOTE: All in favor (7-0) Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Tingle – yes; Langan - yes

Old Business

None

New Business – No Action to be Taken

None

Public Participation:

- John Belian (1 W Houston St) – thanked the town for allowing the fishing tournament. It was a great success with 23 participants. He thanked merchants for supplying the prizes.
- Lynn Andrews (1205 Schulz Rd) – asked if the ambulance service uses the BBVFC building located at the rear of Town Hall during the summer. Bryan Reed advised that it was not staffed 24-7 this summer but that the fire company is present at least once a day to check equipment etc. They have a response time of 5-10 minutes from the location at Station 1.
- Lynn Andrews (1205 Schulz Rd) – asked Council to commit to naming the Cannon Street Park after late-resident Mary Pat Kyle. Mayor Serio noted that it must be shown on the Council Agenda in order for the Council to vote.
- Mike Quinn (5 W Houston St) – remarked that recycling had not been picked up.

Upcoming Events and Meetings:

Mayor Serio announced all upcoming meetings and events. The Charter and Ordinance Committee will meet on Tuesday, 11/13 at 2:20 PM.

Motion to adjourn – Council Member Weistling

Second – Council Member Langan

Meeting adjourned at 4:46 PM.

Agnes DiPietrantonio, Town Clerk
for Diane Tingle, Secretary

Minutes of the October 26, 2012 Regular Council Meeting

BOARD OF ADJUSTMENTS

Tim Collins
Marcia Frederick
Craig Lambertson
Lizbeth Lear
Marlene Quinn

TOWN COMMISSIONS 2012-2013

BOARD OF ELECTIONS

Lynn Andrews
Dick Bowman
Mary Wright

PLANNING COMMISSION

Susan Klein
Winnie Lewis
Richard Mais
Nancy Kushela
Todd Smallwood
Jack Smith
Lois Twilley

PROPOSED SMOKING BAN ON FENWICK ISLAND BEACH

Reasons for the establishment of smoking ban

- **Litter**
 - Cigarette butts are #1 polluters on beaches world-wide (Ocean Conservancy, 2010).
 - A cigarette filter, composed of cellulose acetate, is difficult to degrade biologically, remains in the environment for years.
 - Cigarette butts are toxic when ingested by children, animals, birds and marine life.
 - Cigarette butts are difficult to remove from beaches by mechanical cleaning practices.
 - DNREC yearly Coastal Cleanup Day smoking related trash totals:
 - Cigarettes/filters
 - 2008 – 1,827
 - 2009 – 2,207
 - 2010 – 2039
 - 2011 – 9,817
 - 2012 – 14,478 (cigarette and cigar butts, according to Coastal Point Press, October 19, 2012)
 - Lighters
 - 2008 – 109
 - 2009 – 47
 - 2010 – 24
 - 2011 – 610
 - Cigar tips
 - 2008 – 177
 - 2009 – 482
 - 2010 – 30
 - 2011 – 1,955
 - Tobacco wrapping/wrappers
 - 2008 – 161
 - 2009 – 179
 - 2010 – 35
 - 2011 – 626

Town Committees 2012-2013

AUDIT

Gardner Bunting – Chair
Vicki Rymer
Audrey Serio

Charter and Ordinance

Bill Weistling – Chair
Gene Langan – Vice Chair
Vicki Carmean
Buzz Henifin
Mike Quinn
Diane Tingle
Ben Waide

EMERGENCY MANAGEMENT

Audrey Serio – Chair
Dick Bowman
Chief William Boyden
Gardner Bunting
Gene Langan
Richard Mais

BUDGET

Gardner Bunting – Chair
Vicki Carmean
Gene Langan
John Lewis
Vicki Rymer
Audrey Serio
Todd Smallwood
Diane Tingle
Ben Waide
Bill Weistling

ENVIRONMENTAL

Mary Ellen Langan – Chair
John Belian
Patti Breger
John Fenton
Harry Haon
Betsy Henifin
Buzz Henifin
Susan Klein
Richard Streett
Lois Twilley
David Van Kavelaar

BUILDING

John Belian
Jesse Sheppard
Reid Tingle
Bill Weistling

BEACH

John Belian
Patti Breger
Vivian Jennings
Gene Langan
Lizbeth Lear
Rebecca McWilliams
Stuart Rubenstein
Lori Martin Smallwood

TASK FORCE ad hoc COMMITTEES (appointed until task completed)

PUBLIC PARK – CANNON ST

Audrey Serio – Chair
Linda Bunting
Vicki Carmean
Buzz Henifin
Lois Twilley
David Walker

Minutes of the October 26, 2012 Regular Council Meeting

- **Second-Hand Smoke**

- Scientific literature has already proved that second-hand smoke is harmful in any situation.
- One hundred percent smoke free environment is only effective way to protect people from harmful effects of second-hand smoke.

Environmental Committee Proposes:

- Ban smoking on beach and dune crossing, except at designated areas mid-block by base of dune on the beach.
- Provide receptacles for cigarette butts at designated areas.
- Adequate signage indicating no smoking on beach except at designated areas.
- Signage on back of lifeguard stands.
- Signage have positive tone rather than negative tone, i.e., "Respect the Environment"
- Education component included in environmental handout given to residents and visitors.
- Smoking ban effective year-round.

Ordinance:

- Included in Chapter 48 Article II "Beaches"
 - "Cigarettes, cigars, or any tobacco products are prohibited on the beach and dune crossing, except at designated areas."

Enforcement:

- Peer pressure
- Self-regulation
- Police Department phone number posted on signs.*
- Life-guards monitor smoking on the beach and call for assistance as needed.*

*Discussed these issues with Chief Boyden and Tim Ferry.

Proposed First Reading – September 28, 2012

Proposed Second Reading – October 26, 2012

Approved: October 25, 2012

D. The Town of Fenwick Island shall maintain grading, ditching and surfacing along public roads, as is necessary and practical in order to maintain proper drainage. In order to maintain effective surface water drainage systems, no structures (except mailbox posts), including fencing, walls or hard paving (e.g., concrete, asphalt, brick), may be installed by a property owner or his contractor in the Town's right-of-way between the edge of a paved street and the owner's property line except as provided for in § 61-10D(1)(a) of this Chapter.

(1) The Town will install a gray-colored, crushed stone accessway, up to 20 feet wide, and any necessary underground piping in the Town's right-of-way area between the street edge and the edge of a private property. Use of any other types of stone in this accessway must be approved by the Department of Public Works and paid for by the property owner.

a) To provide persons with disabilities access to the street through the right-of-way, upon receipt of an appropriate request from a property owner, the Town will construct a poured concrete walkway not more than 5 feet wide and shall extend in length from the edge of the street to property line. Use of any other type of solid surface material in this accessway will require a separation joint at the property line and must be approved by the Department of Public Works. The installation of materials other than poured concrete and any repair or replacement of same shall be paid for by the property owner. Such installation shall be installed so as not to restrict drainage in the right-of-way and must be inspected by the Department of Public Works prior to and upon completion.

(2) Accessways for private driveway areas wider than 20 feet will be installed by the Public Works Department, including any required underground piping, and paid for by the property owner, provided that such wider accessways are deemed by the Public Works Department not to interfere with the effective operation of the surface water drainage system. A "private driveway area" is defined as having a structural base of stone, shell, concrete, pavers or macadam.

(3) A structure not conforming to this article at the time of its enactment will be allowed to continue until such time that the Public Works Department determines that the structure needs to be removed or altered for the purpose of repairs or modifications to the road, drainage system (e.g., replacement of underground piping) or public utilities. At such time, the nonconforming structure may be removed or altered by the Public Works Department, and, if necessary, the area restored in conformance to this article at the Town's expense.

Posted: October 26, 2012